
HOUSE BILL 2493

State of Washington

60th Legislature

2008 Regular Session

By Representative Armstrong

Prefiled 12/31/07. Read first time 01/14/08. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to providing fish and wildlife officers with the
2 discretionary authority to issue noncriminal sanctions against
3 individuals suspected of violating chapter 77.15 RCW; amending RCW
4 77.15.190, 77.15.240, 77.15.400, 77.15.410, and 77.15.430; and adding
5 a new section to chapter 77.15 RCW; creating a new section; and
6 prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that enforcement
9 of the state's fish and game laws is an essential component to
10 professional wildlife management. However, the legislature further
11 finds that there are instances when a violation of the state's hunting
12 laws occurs not due to an intentional attempt to increase one's success
13 in the field, but due to honest confusion about the rules or
14 understandable mistakes made in the pursuit of game.

15 (2) The legislature further finds that enforcement officers of the
16 department of fish and wildlife have no option but to cite these well-
17 meaning citizens with a criminal infraction, even if the individual has
18 contacted the fish and wildlife officer directly and self-reported his

1 or her activity. This lack of flexibility or discretion can discourage
2 honest hunters from contacting the authorities when mistakes are made
3 and lead to an overall apprehension of engaging in outdoor sports.

4 (3) It is the intent of the legislature, by way of this act, to
5 provide the field enforcement of the department of fish and wildlife
6 with additional enforcement tools, other than criminal sanctions, to
7 properly handle situations where well-meaning and otherwise law-abiding
8 hunters mistakenly, and with no intent to violate a hunting law, find
9 themselves in violation of the fish and wildlife enforcement code.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
11 to read as follows:

12 (1) If mitigating circumstances exist, the responding fish and
13 wildlife officer may, as an alternative to citing an individual for a
14 violation of RCW 77.15.190, 77.15.240, 77.15.400, 77.15.410, or
15 77.15.430, instead issue a noncriminal natural resource infraction
16 under chapter 7.84 RCW.

17 (2) The commission shall identify examples of appropriate
18 mitigating circumstances to aid a responding fish and wildlife officer
19 in the implementation of this section. Examples of appropriate
20 mitigating circumstances may include instances when the suspect self-
21 reports the activity giving rise to the violation, and where the
22 activity resulted from a mistake or is an unintended result.

23 (3) Regardless of examples identified by the commission, the
24 discretion to issue either a noncriminal natural resource infraction
25 under this section or a criminal citation under the applicable
26 statutory authority belongs to the responding fish and wildlife officer
27 and is based on the individual circumstances of the situation being
28 investigated.

29 (4) The penalty for a natural resource infraction issued under this
30 section is one hundred fifty dollars.

31 **Sec. 3.** RCW 77.15.190 and 1999 c 258 s 9 are each amended to read
32 as follows:

33 (1) Unless otherwise cited under section 2 of this act, a person is
34 guilty of unlawful trapping if the person:

35 (a) Sets out traps that are capable of taking wild animals, game

1 animals, or furbearing mammals and does not possess all licenses, tags,
2 or permits required under this title;

3 (b) Violates any rule of the commission or director regarding
4 seasons, bag or possession limits, closed areas including game
5 reserves, closed times, or any other rule governing the trapping of
6 wild animals; or

7 (c) Fails to identify the owner of the traps or devices by neither
8 (i) attaching a metal tag with the owner's department-assigned
9 identification number or the name and address of the trapper legibly
10 written in numbers or letters not less than one-eighth inch in height
11 nor (ii) inscribing into the metal of the trap such number or name and
12 address.

13 (2) Unlawful trapping is a misdemeanor.

14 **Sec. 4.** RCW 77.15.240 and 1998 c 190 s 30 are each amended to read
15 as follows:

16 (1) Unless otherwise cited under section 2 of this act, a person is
17 guilty of unlawful use of dogs if the person:

18 (a) Negligently fails to prevent a dog under the person's control
19 from pursuing or injuring deer, elk, or an animal classified as
20 endangered under this title;

21 (b) Uses the dog to hunt deer or elk; or

22 (c) During the closed season for a species of game animal or game
23 bird, negligently fails to prevent the dog from pursuing such animal or
24 destroying the nest of a game bird.

25 (2) Unlawful use of dogs is a misdemeanor. A dog that is the basis
26 for a violation of this section may be declared a public nuisance.

27 **Sec. 5.** RCW 77.15.400 and 2006 c 148 s 1 are each amended to read
28 as follows:

29 (1) Unless otherwise cited under section 2 of this act, a person is
30 guilty of unlawful hunting of wild birds in the second degree if the
31 person:

32 (a) Hunts for, takes, or possesses a wild bird and the person does
33 not have and possess all licenses, tags, stamps, and permits required
34 under this title;

35 (b) Maliciously destroys, takes, or harms the eggs or nests of a
36 wild bird except when authorized by permit;

1 (c) Violates any rule of the commission or director regarding
2 seasons, bag or possession limits but less than two times the bag or
3 possession limit, closed areas, closed times, or other rule addressing
4 the manner or method of hunting or possession of wild birds; or

5 (d) Possesses a wild bird taken during a closed season for that
6 wild bird or taken from a closed area for that wild bird.

7 (2) A person is guilty of unlawful hunting of wild birds in the
8 first degree if the person takes or possesses two times or more than
9 the possession or bag limit for wild birds allowed by rule of the
10 commission or director.

11 (3)(a) Unlawful hunting of wild birds in the second degree is a
12 misdemeanor.

13 (b) Unlawful hunting of wild birds in the first degree is a gross
14 misdemeanor.

15 (4) In addition to the penalties set forth in this section, if a
16 person, other than a youth as defined in RCW 77.08.010 for hunting
17 purposes, violates a rule adopted by the commission under the authority
18 of this title that requires the use of nontoxic shot, upon conviction:

19 (a) The court shall require a payment of one thousand dollars as a
20 criminal wildlife penalty assessment that must be paid to the clerk of
21 the court and distributed to the state treasurer for deposit in the
22 fish and wildlife enforcement reward account created in RCW 77.15.425.
23 The criminal wildlife penalty assessment must be imposed regardless of
24 and in addition to any sentence, fine, or costs imposed for violating
25 this section. The criminal wildlife penalty assessment must be
26 included by the court in any pronouncement of sentence and may not be
27 suspended, waived, modified, or deferred in any respect; and

28 (b) The department shall revoke the hunting license of the person
29 and order a suspension of small game hunting privileges for two years.

30 **Sec. 6.** RCW 77.15.410 and 2005 c 406 s 4 are each amended to read
31 as follows:

32 (1) Unless otherwise cited under section 2 of this act, a person is
33 guilty of unlawful hunting of big game in the second degree if the
34 person:

35 (a) Hunts for, takes, or possesses big game and the person does not
36 have and possess all licenses, tags, or permits required under this
37 title;

1 (b) Violates any rule of the commission or director regarding
2 seasons, bag or possession limits, closed areas including game
3 reserves, closed times, or any other rule governing the hunting,
4 taking, or possession of big game; or

5 (c) Possesses big game taken during a closed season for that big
6 game or taken from a closed area for that big game.

7 (2) A person is guilty of unlawful hunting of big game in the first
8 degree if the person was previously convicted of any crime under this
9 title involving unlawful hunting, killing, possessing, or taking big
10 game, and within five years of the date that the prior conviction was
11 entered the person:

12 (a) Hunts for big game and does not have and possess all licenses,
13 tags, or permits required under this title;

14 (b) Acts in violation of any rule of the commission or director
15 regarding seasons, bag or possession limits, closed areas including
16 game reserves, or closed times; or

17 (c) Possesses big game taken during a closed season for that big
18 game or taken from a closed area for that big game.

19 (3)(a) Unlawful hunting of big game in the second degree is a gross
20 misdemeanor. Upon conviction of an offense involving killing or
21 possession of big game taken during a period of time when hunting for
22 the particular species is not permitted, or in excess of the bag or
23 possession limit, the department shall revoke all hunting licenses and
24 tags and order a suspension of hunting privileges for two years.

25 (b) Unlawful hunting of big game in the first degree is a class C
26 felony. Upon conviction, the department shall revoke all hunting
27 licenses or tags and the department shall order the person's hunting
28 privileges suspended for ten years.

29 **Sec. 7.** RCW 77.15.430 and 1999 c 258 s 4 are each amended to read
30 as follows:

31 (1) Unless otherwise cited under section 2 of this act, a person is
32 guilty of unlawful hunting of wild animals in the second degree if the
33 person:

34 (a) Hunts for, takes, or possesses a wild animal that is not
35 classified as big game, and does not have and possess all licenses,
36 tags, or permits required by this title;

1 (b) Violates any rule of the commission or director regarding
2 seasons, bag or possession limits but less than two times the bag or
3 possession limit, closed areas including game reserves, closed times,
4 or other rule addressing the manner or method of hunting or possession
5 of wild animals not classified as big game; or

6 (c) Possesses a wild animal that is not classified as big game
7 taken during a closed season for that wild animal or from a closed area
8 for that wild animal.

9 (2) A person is guilty of unlawful hunting of wild animals in the
10 first degree if the person takes or possesses two times or more than
11 the possession or bag limit for wild animals that are not classified as
12 big game animals as allowed by rule of the commission or director.

13 (3)(a) Unlawful hunting of wild animals in the second degree is a
14 misdemeanor.

15 (b) Unlawful hunting of wild animals in the first degree is a gross
16 misdemeanor.

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